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PATENT

AUG 30 2006 Atty Docket No.: 10011548-1
App. Ser. No.: 10/076,635

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. By virtue of the amendments above, Claims 11, 3-7, 10-12, 14, 16, 17, 19-21, 23, 25-27, 29, 30, and 32-38 have been amended and Claim 39 has been added. As such, Claims 1-39 are currently pending in the present application of which Claims 1, 17, 32, and 39 are independent.

No new matter has been introduced by way of the claim amendments of addition; entry thereof is therefore respectfully requested.

Allowable Subject Matter

The indication that Claims 3-16, 19-31, and 33-38 are objected to as being dependent upon a rejected base claim but that these claims would otherwise be allowable is noted with appreciation. By virtue of the amendments above, independent Claim 1 has been amended to include most of the features of allowable Claim 3, independent Claim 17 has been amended to include most of the features of allowable Claim 19, and independent Claim 32 has been amended to include most of the features of allowable Claim 33.

For at least these reasons, it is respectfully submitted that all of the pending claims are allowable over the cited documents of record. An early indication of allowability is thus respectfully requested.

Drawings

It is noted that the Official Action dated September 8, 2005 included an indication that the drawings filed on February 19, 2002 have been accepted.

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Claim Rejection Under 35 U.S.C. §101

The Official Action sets forth a rejection of Claims 1-38 as allegedly being directed to non-statutory subject matter. More particularly, the Official Action asserts that “independent claims 1, 17, and 32 do not claim a practical application with a tangible result, that language claiming: (in claim 1) defining (emphasis added) the IDC; pre-characterizing the cells; determining an arrangement; and determining a profile.” (emphasis in original). Claims 17 and 32 have also been rejected as being directed to a system comprising modules for completing the steps recited in Claim 1.

Although Applicants respectfully disagree with this rejection, Applicants have amended independent Claims 1, 17, and 32 according to the guidelines set forth in MPEP 2106(IV)B(2)(b)(ii). More particularly, Claims 1, 17, and 32 have been amended according to the “Manipulation of Data Representing Physical Objects or Activities (Pre-Computer Process Activity)” sub-section of the section entitled “Safe Harbors”. As stated in the first example under that subsection, data that is an intangible representation of physical activity is within the safe harbor. In the instant case, Claims 1, 17, and 38 claim data, such as the cells, that are intangible representations of the physical components of the IDC. Therefore, Claims 1-38 fall within the safe harbor.

The Official Action further rejects Claim 17 as failing to “meet the criteria for a statutory process due to the examiner’s interpretation of ‘a definition module stored in a computerized system.’” Initially, it is respectfully submitted that Claim 17 is directed to a “computerized system” and not a “process”. As such, the interim guidelines set forth for process claims should not be applied to Claim 17.

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In addition, the Examiner's interpretation that the claimed definition module includes "signals" is improper. Instead, the term "module" may be defined as "a self-contained assembly of electronic components and circuitry, such as a stage in a computer, that is installed as a unit," or "a portion of a program that carries out a specific function and may be used alone or combined with other modules of the same program." AMERICAN HERITAGE DICTIONARY, fourth edition, 2000. The definition module should be defined according to the standard dictionary definition of a "module" because Applicants did not recite that the definition module comprises the computer readable medium discussed on page 12 of the Specification.

For at least the foregoing reasons, the Examiner is respectfully requested to withdraw the rejection of Claims 1-38 as being directed to non-statutory subject matter.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1, 2, 17, 18, and 32 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent Application Publication No. 2003/0115024 to Snevely. This rejection is respectfully traversed for at least the following reasons.

As discussed above, independent Claims 1, 17, and 32 have been amended to include subject matter from Claims 3, 19, and 33, respectively, which have been deemed to be allowable. As such, it is respectfully submitted that Snevely fails to teach or suggest a method of using a computer processor to design a physical layout for an IDC comprising the steps recited in Claim 1. It is also respectfully submitted that Snevely fails to disclose a computerized system to design a physical layout for an IDC comprising all of the features of Claims 17 and 32.

For at least the foregoing reasons, it is respectfully submitted that Snevely fails to teach or suggest all of the features of independent Claims 1, 17, and 32, and therefore, a *prima facie* case of obviousness has not been established under 35 U.S.C. § 103.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claims 1, 2, 17, 18, and 32 and to allow these claims.

Newly Added Claim

New Claim 39 has been added to further define the scope of the invention. Support for the subject matter contained in Claim 39 may at least be found on page 12 of the Specification. In addition, Claim 39 is allowable over the cited documents of record for

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reasons similar to those discussed above with respect to Claim 1. Claim 39 is further allowable over the cited documents of record because none of the cited documents of record appear to disclose the use of a computer processor to design a physical layout of an IDC cooling based on one or more constraints and a determined profile for each cell, such that the IDC cooling is arranged to model conditions within the IDC to stay within the assigned one or more constraints and the determined profile of each cell.

Conclusion


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: August 30, 2006

By



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